

Introduced by Senator Lewis

February 26, 1997

An act to amend Section 1861.03 of the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 858, as introduced, Lewis. Automobile insurance: notice of cancellation.

Existing law provides that a notice of cancellation or nonrenewal of a policy of automobile insurance shall be effective only if it is based upon one or more of certain specified reasons.

This bill would make that provision inapplicable to any policy or coverage that has been in effect less than 60 days at the time notice of cancellation is mailed or delivered by the insurer, unless it is a renewal policy or good driver discount policy.

The bill would declare that it is to take effect immediately as an urgency statute.

This bill would amend a provision contained in Proposition 103. That proposition prohibits an amendment to its provisions by statute except to further its purposes and requires a $\frac{2}{3}$ vote.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1861.03 of the Insurance Code is
2 amended to read:

3 1861.03. (a) The business of insurance shall be
4 subject to the laws of California applicable to any other
5 business, including, but not limited to, the Unruh Civil
6 Rights Act (Sections 51 to 53, inclusive, of the Civil Code),
7 and the antitrust and unfair business practices laws (Parts
8 2 (commencing with Section 16600) and 3 (commencing
9 with Section 17500) of Division 7 of the Business and
10 Professions Code).

11 (b) Nothing in this section shall be construed to
12 prohibit (1) any agreement to collect, compile and
13 disseminate historical data on paid claims or reserves for
14 reported claims, provided such data is
15 contemporaneously transmitted to the commissioner, (2)
16 participation in any joint arrangement established by
17 statute or the commissioner to assure availability of
18 insurance, (3) any agent or broker, representing one or
19 more insurers, from obtaining from any insurer it
20 represents information relative to the premium for any
21 policy or risk to be underwritten by that insurer, (4) any
22 agent or broker from disclosing to an insurer it represents
23 any quoted rate or charge offered by another insurer
24 represented by that agent or broker for the purpose of
25 negotiating a lower rate, charge, or term from the insurer
26 to whom the disclosure is made, or (5) any agents,
27 brokers, or insurers from utilizing or participating with
28 multiple insurers or reinsurers for underwriting a single
29 risk or group of risks.

30 (c) (1) Notwithstanding any other provision of law, a
31 notice of cancellation or nonrenewal of a policy for
32 automobile insurance shall be effective only if it is based
33 on one or more of the following reasons: (A) nonpayment
34 of premium; (B) fraud or material misrepresentation
35 affecting the policy or insured; (C) a substantial increase
36 in the hazard insured against.

37 (2) This subdivision shall not prevent a reciprocal
38 insurer, organized prior to November 8, 1988, by a motor

1 club holding a certificate of authority under Chapter 2
2 (commencing with Section 12160) of Part 5 of Division 2,
3 and which requires membership in the motor club as a
4 condition precedent to applying for insurance, from
5 issuing an effective notice of nonrenewal based solely on
6 the failure of the insured to maintain membership in the
7 motor club. This subdivision shall also not prevent an
8 insurer which issues private passenger automobile
9 coverage to members of groups that were in existence
10 prior to November 8, 1988, whether membership,
11 franchise, or otherwise, and to those who are not
12 members of groups from issuing an effective notice of
13 nonrenewal for coverage provided to the insured as a
14 member of the group based solely on the failure of the
15 insured to maintain that membership if (i) the insurer
16 offers to renew the coverage to the insured on a nongroup
17 basis, or (ii) to transfer the coverage to an affiliated
18 insurer. The rates charged by the insurer or affiliated
19 insurer shall have been adopted pursuant to this article.
20 However, all of the following conditions shall be
21 applicable to that insurance:

22 (A) Membership, if conditioned, is conditioned only
23 on timely payment of membership dues and other bona
24 fide criteria not based upon driving record or insurance,
25 provided that membership in a motor club may not be
26 based on residence in any area within the state.

27 (B) Membership dues are paid solely for and in
28 consideration of the membership and membership
29 benefits and bear a reasonable relationship to the benefits
30 provided. The amount of the dues shall not depend on
31 whether the member purchases insurance offered by the
32 membership organization. None of those membership
33 dues or any portion thereof shall be transferred by the
34 membership organization to the insurer, or any affiliate
35 of the insurer, attorney-in-fact, subsidiary, or holding
36 company thereof, provided that this provision shall not
37 prevent any bona fide transaction between the
38 membership organization and those entities.

39 (C) Membership provides bona fide services or
40 benefits in addition to the right to apply for insurance.

1 Those services shall be reasonably available to all
2 members within each class of membership.

3 Any insurer that violates subparagraphs (A), (B), or
4 (C) shall be subject to the penalties set forth in Section
5 1861.14.

6 *(3) This subdivision does not apply to any policy or*
7 *coverage that has been in effect less than 60 days at the*
8 *time notice of cancellation is mailed or delivered by the*
9 *insurer, unless it is a renewal policy or a good driver*
10 *discount policy.*

11 SEC. 2. This act is an urgency statute necessary for the
12 immediate preservation of the public peace, health, or
13 safety within the meaning of Article IV of the
14 Constitution and shall go into immediate effect. The facts
15 constituting the necessity are:

16 In order to provide practical relief to insurance
17 companies experiencing a tremendous increase in the
18 volume of automobile insurance applications at the
19 earliest possible time, it is necessary that this act take
20 effect immediately.

